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Attorneys for Creditor XXIII Capital Limited

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:

JONATHAN LEE SMITH,

Debtor.

Case No. 2:21-bk-12542-BR

Chapter 7

**SECOND STIPULATION BY AND BETWEEN
XXIII CAPITAL LIMITED AND DEBTOR
JONATHAN LEE SMITH TOLLING DEADLINE
TO FILE A COMPLAINT OBJECTING TO THE
DISCHARGE OF THE DEBTOR AND
DETERMINING THE NON-
DISCHARGEABILITY OF CERTAIN CLAIMS**

Date: No Hearing Required
Time: No Hearing Required
Place: Courtroom 1568
255 E. Temple Street
Los Angeles, CA 90012
Judge: Hon. Barry Russell

1 This Stipulation is made with reference to the following facts:

2 A. On March 30, 2021, Jonathan Lee Smith (the “**Debtor**”) commenced the above-
3 captioned case under chapter 7 of the Bankruptcy Code.

4 B. XXIII Capital Limited (“**23 Capital**”) asserts substantial claims against the Debtor
5 relating to a Guaranty and Security Agreement executed by the Debtor in favor of 23 Capital in
6 connection with a defaulted loan made to an affiliate of the Debtor.

7 C. The Debtor and 23 Capital previously stipulated to extend the deadline for 23 Capital to
8 file a complaint objecting to the discharge of the Debtor and/or determining the non-dischargeability of
9 23 Capital’s claims against the Debtor to September 27, 2021.

10 D. As set forth below, 23 Capital has requested and the Debtor has agreed to an extension of
11 the deadline for 23 Capital to file a complaint objecting to the discharge of the Debtor and/or
12 determining the non-dischargeability of its claims. Although 23 Capital believes it has sound legal and
13 factual grounds to bring a complaint, it is still evaluating whether to do so.

14 E. In particular, 23 Capital is also a secured creditor in the related case of Hoplite
15 Entertainment, Inc, 2:21-bk-12546-ER, and the recovery that 23 Capital may secure in that case could
16 impact whether it seeks to file a complaint objecting to the discharge of the Debtor and/or determining
17 the non-dischargeability of its claims.

18 F. The Debtor denies that there are any grounds for 23 Capital to bring a case under sections
19 727 or 523 of the Bankruptcy Code.

20 G. Both 23 Capital and the Debtor believe it is advisable to extend the deadline for
21 23 Capital to file a complaint to avoid the potentially unnecessary incurrence of attorneys’ fees and costs
22 by both 23 Capital and the Debtor while 23 Capital evaluates whether to file a complaint.

WHEREFORE, 23 Capital and the Debtor hereby stipulate that:

1. The deadline for 23 Capital to file a complaint objecting to the discharge of the Debtor and/or determining the non-dischargeability of its claims against the Debtor under sections 523 and 727 of the Bankruptcy Code is tolled through and including December 31, 2021.

2. The foregoing is without prejudice to 23 Capital's right to move the Court for entry of an order extending the deadline for 23 Capital to file a complaint objecting to the discharge of the Debtor and/or determining the non-dischargeability of its claims against the Debtor under sections 523 and 727 of the Bankruptcy Code for cause pursuant to Federal Rules of Bankruptcy Procedure 4004(b)(1) and 4007(c). Such motion shall be timely provided it is filed on or before December 31, 2021.

DATED: September 20, 2021

GREENBERG TRAURIG, LLP

By: /s/ David M. Guess
DAVID M. GUESS
ARI NEWMAN (admitted *pro hac vice*)
Attorneys for Creditor XXIII Capital Limited

DATED: September 20, 2021

LAW OFFICE OF CHRISTOPHER P. WALKER

By: _____
CHRISTOPHER P. WALKER

1 WHEREFORE, 23 Capital and the Debtor hereby stipulate that:

2 1. The deadline for 23 Capital to file a complaint objecting to the discharge of the Debtor
3 and/or determining the non-dischargeability of its claims against the Debtor under sections 523 and 727
4 of the Bankruptcy Code is tolled through and including December 31, 2021.

5 2. The foregoing is without prejudice to 23 Capital's right to move the Court for entry of an
6 order extending the deadline for 23 Capital to file a complaint objecting to the discharge of the Debtor
7 and/or determining the non-dischargeability of its claims against the Debtor under sections 523 and 727
8 of the Bankruptcy Code for cause pursuant to Federal Rules of Bankruptcy Procedure 4004(b)(1) and
9 4007(c). Such motion shall be timely provided it is filed on or before December 31, 2021.

10
11
12 DATED: September 20, 2021

GREENBERG TRAURIG, LLP

13 By: /s/ David M. Guess
14 DAVID M. GUESS
15 ARI NEWMAN (admitted *pro hac vice*)
16 Attorneys for Creditor XXIII Capital Limited

17 DATED: September 20, 2021

LAW OFFICE OF CHRISTOPHER P. WALKER

18
19 By: 
20 CHRISTOPHER P. WALKER
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27 ACTIVE 60123225v1
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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
18565 Jamboree Road, Suite 500, Irvine, CA 92612

A true and correct copy of the foregoing document entitled: **SECOND STIPULATION BY AND BETWEEN XXIII CAPITAL LIMITED AND DEBTOR JONATHAN LEE SMITH TOLLING DEADLINE TO FILE A COMPLAINT OBJECTING TO THE DISCHARGE OF THE DEBTOR AND DETERMINING THE NON-DISCHARGEABILITY OF CERTAIN CLAIMS** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On September 20, 2021, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL: On (date) _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Cynthia Aros

Date

Printed Name

/s/ Cynthia Aros

Signature

**PROOF OF SERVICE ATTACHMENT
VIA NOTICE OF ELECTRONIC FILING (NEF)**

Tanya Behnam on behalf of Creditor Columbia State Bank

tbehnam@polsinelli.com,
tanyabehnam@gmail.com; ccripe@polsinelli.com; ladocketing@polsinelli.com

Luke N Eaton on behalf of Creditor Bay Point Capital Partners II, LP

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Philip A Gasteier on behalf of Interested Party Kyle Anderson pag@lnbrb.com

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Aditi Paranjpye on behalf of Creditor One Light Media Capital, LLC

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Faye C Rasch on behalf of Interested Party Courtesy NEF

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Arvind Nath Rawal on behalf of Creditor Capital One Auto Finance, a division of Capital One, N.A., c/o AIS Portfolio Services, LP arawal@americaninfosource.com

United States Trustee (LA) ustpreion16.la.ecf@usdoj.gov

Christopher P Walker on behalf of Debtor Jonathan Lee Smith

cwalker@cpwalkerlaw.com, lhines@cpwalkerlaw.com; r57253@notify.bestcase.com

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